

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION)	MDL 2804
OPIATE LITIGATION)	
)	Case No. 1:17-md-2804
THIS DOCUMENT RELATES TO:)	
)	Judge Dan Aaron Polster
<i>Lower Brule Sioux Tribe v.</i>)	
<i>AmerisourceBergen Drug Corporation, et</i>)	TRIBAL PLAINTIFFS' SHORT FORM
<i>al.</i>)	FOR SUPPLEMENTING COMPLAINT
)	AND AMENDING DEFENDANTS AND
<i>1:19-op-45350</i>)	JURY DEMAND

Plaintiff submits this supplemental pleading and Amended Complaint incorporating as if fully set forth herein its own prior pleadings and, if indicated below, the common factual allegations identified and the RICO causes of action included in *Muscogee (Creek) Nation's* First Amended Complaint, (Doc. 731, 1:17-md-02804) and *The Blackfeet Tribe of the Blackfeet Indian Reservation's* Corrected First Amended Complaint (Redacted), (Doc. 9, 18-op-45749), both as pleaded and as may be amended in the future ("Tribal Bellwether Plaintiffs' pleadings"), and any additional claims asserted herein. Plaintiff also hereby amends its complaint to alter the defendants against which claims are asserted as identified below. To the extent defendants were previously sued in plaintiff(s)' existing complaint and they are no longer identified as defendants herein, they have been dismissed without prejudice except as limited by CMO-1, Section 6(e). Doc. #: 232.

INCORPORATION BY REFERENCE OF EXISTING COMPLAINT

1. Plaintiff(s)' Existing Complaint, *Lower Brule Sioux Tribe v. AmerisourceBergen Drug Corporation, et al.* (Doc. #:1 1:19-OP-45350) is expressly incorporated by reference to this Short Form as if fully set forth herein except to the extent that allegations regarding certain defendants that are not listed in section 2 below are dismissed without prejudice.

PARTIES – DEFENDANTS

2 Having reviewed the relevant ARCOS data, Plaintiff asserts claims against the following Defendants:

AMERISOURCEBERGEN DRUG CORPORATION, CARDINAL HEALTH, INC., McKESSON CORPORATION, PURDUE PHARMA L.P., PURDUE PHARMA, INC., THE PURDUE FREDERICK COMPANY, INC., TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC., CEPHALON, INC., JOHNSON & JOHNSON, JANSSEN PHARMACEUTICALS, INC. ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC. n/k/a JANSSEN PHARMACEUTICALS, INC., JANSSEN PHARMACEUTICA INC. n/k/a JANSSEN PHARMACEUTICALS, INC., NORAMCO, INC., ENDO HEALTH SOLUTIONS INC., ENDO PHARMACEUTICALS, INC., PAR PHARMACEUTICAL, INC., PAR PHARMACEUTICAL COMPANIES, INC., ALLERGAN PLC f/k/a ACTAVIS PLC, ALLERGAN FINANCE LLC, f/k/a ACTAVIS, INC., f/k/a WATSON PHARMACEUTICALS, INC., WATSON LABORATORIES, INC., ACTAVIS LLC, ACTAVIS PHARMA, INC. f/k/a WATSON PHARMA, INC., MALLINCKRODT PLC, MALLINCKRODT LLC., SPECGX LLC, INSYS THERAPEUTICS, INC., CVS PHARMACY, INC., CVS INDIANA, L.L.C., WALMART INC. f/k/a WAL-MART STORES, INC., WALGREEN CO., WALGREEN ARIZONA DRUG CO., DAKOTA DRUG, INC., AMNEAL PHARMACEUTICALS, LLC., MYLAN PHARMACEUTICALS, INC. dba MYLAN PHARMACEUTICALS, SANDOZ, INC., WEST-WARD PHARMACEUTICALS CORPORATION n/k/a HIKMA PHARMACEUTICALS USA INC., RHODES PHARMACEUTICALS L.P., ETHEX CORPORATION, and KVK-TECH, INC.

I, **Anthony J. Majestro**, Counsel for Plaintiff(s), certify that in identifying all Defendants, I have followed the procedure approved by the Court and reviewed the ARCOS data that I understand to be relevant to Plaintiff(s).

I further certify that, except as set forth below, each of the Defendant(s) newly added herein appears in the ARCOS data I reviewed.

I understand that for each newly added Defendant not appearing in the ARCOS data I must set forth below factual allegations sufficient to state a claim against any such newly named Defendant that does not appear in the ARCOS data.

The following newly added Defendant(s) *do not appear* in the ARCOS data I reviewed:

N/A

DATED: AUGUST 12, 2019

SIGNED: /s/ Anthony J. Majestro
Attorney for Plaintiff(s)

Factual Allegations Regarding Individual Defendants

2.1 Defendant **Dakota Drug, Inc.** is a North Dakota corporation with its principal place of business in Minot, North Dakota. Dakota Drug, Inc. is registered to conduct business and/or conducts business in Plaintiff's community as a licensed wholesale pharmaceutical distributor. Dakota Drug, Inc. distributed opioids, in violation of the duties owed to Plaintiff as set forth in Plaintiff's original complaint and the other allegations incorporated herein, in sufficient quantities to be a proximate cause of Plaintiff's injuries. Dakota Drug, Inc. is sued as a Distributor Defendant.

2.2 Defendants **Amneal Pharmaceuticals, LLC** ("Amneal") is a Delaware limited liability company with its principal place of business in Branchburg, New Jersey. Amneal manufactures, promotes, distributes and/or sells opioids nationally, including many Schedule II controlled substances such as Oxycodone and Hydrocodone. Amneal is registered to conduct business and/or conducts business in Plaintiff's community as a licensed wholesale pharmaceutical distributor. Amneal distributed opioids, in violation of the duties owed to Plaintiff as set forth in Plaintiff's original complaint and the other allegations incorporated herein, in sufficient quantities to be a proximate cause of Plaintiff's injuries. Amneal is sued as a Marketing Defendant.

2.3 Defendant **KVK-Tech, Inc.** is a privately-held Pennsylvania corporation with its principal place of business in Pennsylvania. KVK-Tech, Inc. is a manufacturer of generic prescription opioids, including many Schedule II controlled substances such as Oxycodone and Hydrocodone. KVK-Tech, Inc. manufactures, markets, sells and/or distributes pharmaceutical drugs nationally and in Plaintiff's Community. KVK-Tech, Inc. is registered to conduct business

and/or conducts business in Plaintiff's community as a licensed wholesale pharmaceutical distributor. KVK-Tech, Inc. distributed opioids, in violation of the duties owed to Plaintiff as set forth in Plaintiff's original complaint and the other allegations incorporated herein, in sufficient quantities to be a proximate cause of Plaintiff's injuries. KVK-Tech, Inc. is sued as a Marketing Defendant.

2.4 Defendant **Mylan Pharmaceuticals, Inc.** dba Mylan Pharmaceuticals is a West Virginia corporation with its principal place of business located in Morgantown, WV. Mylan Pharmaceuticals is registered to conduct business and/or conducts business in Plaintiff's community as a licensed wholesale pharmaceutical distributor. Mylan Pharmaceuticals distributed opioids, in violation of the duties owed to Plaintiff as set forth in Plaintiff's original complaint and the other allegations incorporated herein, in sufficient quantities to be a proximate cause of Plaintiff's injuries. Mylan Pharmaceuticals is sued as a Marketing Defendant.

2.5 Defendant **West-Ward Pharmaceuticals Corporation** n/k/a Hikma Pharmaceuticals USA Inc. ("West-Ward") is a Delaware corporation with a principal place of business in New Jersey. West-Ward is a provider of oral, liquid, inhalant, and injectable branded and non-branded generic medicines. West-Ward is a manufacturer of generic prescription opioids, including many Schedule II controlled substances such as Oxycodone and Hydromorphone. West-Ward manufactures, markets, sells and/or distributes pharmaceutical drugs nationally and in Plaintiff's Community. West-Ward is registered to conduct business and/or conducts business in Plaintiff's community as a licensed wholesale pharmaceutical distributor. West-Ward distributed opioids, in violation of the duties owed to Plaintiff as set forth in Plaintiff's original complaint and the other allegations incorporated herein, in sufficient quantities to be a proximate cause of Plaintiff's injuries. West-Ward is sued as a Marketing

Defendant.

2.6 Defendant **Sandoz, Inc. (“Sandoz”)** is a division of Novartis Pharmaceuticals Corporation (“Novartis”) is registered as a Delaware corporation with its principal place of business in East Hanover, New Jersey. Sandoz is a Colorado corporation with its principal place of business in Princeton, New Jersey. Sandoz principally develops, manufactures, markets, and distributes generic pharmaceutical products. Upon information and belief, at all times relevant. Sandoz manufactured, promoted, distributed and/or sold opioids nationally, and in Plaintiff’s Community in violation of the duties owed to Plaintiff and in sufficient quantities to proximately cause Plaintiff’s injuries as set forth herein.

2.7 Defendant **Ethex Corporation** (“Ethex”) was a wholly owned subsidiary of KV Pharmaceutical k/n/a AMAG Pharma USA, Inc., a Delaware corporation previously headquartered in St. Louis, Missouri, and currently headquartered in Waltham, Massachusetts. At all relevant times, Ethex manufactured, promoted, distributed, and sold opioids throughout Plaintiffs’ Communities and the rest of the nation.

2.8 Defendant **Rhodes Pharmaceuticals L.P.** (“Rhodes”) is a Delaware limited partnership formed in or around 2007 with headquarters located in Coventry, Rhode Island. At all relevant times, Rhodes manufactured, promoted, distributed, and sold opioids throughout Plaintiffs’ Communities and the rest of the nation.

COMMON FACTUAL ALLEGATIONS

3 By checking the boxes in this section, Plaintiff hereby incorporates by reference to this document the common factual allegations set forth in the *Tribal Bellwether Plaintiffs’* Pleadings as identified in the Court’s Order implementing the Tribal Plaintiff Short Form procedure. Doc. #1680.

Muscogee (Creek) Nation's First Amended Complaint, (Doc. 731, 1:17-md-02804):

- ☒ Common Factual Allegations (¶¶96-98)
- ☒ Common Factual Allegations - Marketing Manufacturers (¶¶99-156)
- ☒ Common Factual Allegations - Generic Marketing Manufacturers (¶¶157-161)
- ☒ Common Factual Allegations - Diversion Defendants (¶¶162-165)
- ☒ Common Factual Allegations - Diversion Defendants and Distributor Defendants (¶¶166-169, 200-211)
- ☒ Common Factual Allegations - Distributor Defendants (¶¶212-223, 230-236)
- ☒ Common Factual Allegations - Pharmacy Defendants (¶¶170-177, 237-262)
- ☒ Common Factual Allegations - Diversion Manufacturer Defendants (¶¶224-229)
- ☒ Common Factual Allegations - RICO Marketing Enterprise (¶¶295-328)
- ☒ Common Factual Allegations - RICO Supply Chain Enterprise (¶¶329-352)

The Blackfeet Tribe of the Blackfeet Indian Reservation's Corrected First Amended Complaint (Redacted), (Doc. 9, 18-op-45749):

- ☒ Common Factual Allegations (¶¶99-143, 480-585, 636-650, 721-735)
- ☒ Common Factual Allegations - Marketing Defendants (¶¶144-468, 701-720, 736-763)
- ☒ Common Factual Allegations - Distributor Defendants (¶¶469-473)
- ☒ Common Factual Allegations - Supply Chain Defendants (¶¶474-479)
- ☒ Common Factual Allegations - National Retail Pharmacy Defendants (¶¶586-635)
- ☒ Common Factual Allegations - RICO Marketing Enterprise (¶¶764-798)
- ☒ Common Factual Allegations - RICO Supply Chain Enterprise (¶¶799-827)

4. If additional claims are alleged below that were not pled in Plaintiff's Existing Complaint (other than the RICO claims asserted herein), the facts supporting those allegations must be pleaded here. Plaintiff(s) assert(s) the following additional facts to support the claim(s) identified in Paragraph 6 below (below or attached): **N/A**

CLAIMS

5. The following federal **RICO causes of action** asserted in the *Tribal Bellwether Plaintiffs'* Pleadings as identified in the Court's implementing order and any subsequent amendments, are incorporated in this Short Form by reference, in addition to the causes of action already asserted in the Plaintiff(s)'s Existing Complaint (check all that apply):

- ☒ First Claim for Relief – Violation of RICO, 18 U.S.C. § 1961 *et seq.* – Opioid Marketing Enterprise (Against the “Marketing Manufacturer Defendants”) (*Muscogee (Creek)* Pleadings,

Paragraphs 353-379)

☒ First Claim for Relief – Violation of RICO, 18 U.S.C. § 1961 *et seq.* – Opioid Marketing Enterprise (Against Defendants Purdue, Cephalon, Janssen, Endo and Mallinckrodt (the “RICO Marketing Defendants”)) (*Blackfeet* Pleadings, Paragraphs 828-855)

☒ Second Claim for Relief – Violation of RICO, 18 U.S.C. § 1961 *et seq.* – Opioid Supply Chain Enterprise (Against All Defendants) (*Muscogee (Creek)* Pleadings, Paragraphs 380-408)

☒ Second Claim for Relief – Violation of RICO, 18 U.S.C. § 1961 *et seq.* – Opioid Supply Chain Enterprise (Against Defendants Purdue, Cephalon, Endo, Mallinckrodt, Actavis, McKesson, Cardinal, and AmerisourceBergen (the “RICO Supply Chain Defendants”)) (*Blackfeet* Pleadings, Paragraphs 856-887)

6 Plaintiff asserts the following **additional claims** as indicated (below or attached):

N/A

7. To the extent Plaintiff(s) wish(es) to **dismiss claims** previously asserted in Plaintiff(s) Existing Complaint, they are identified below and will be dismissed without prejudice.

N/A

WHEREFORE, Plaintiff(s) prays for relief as set forth in the *Tribal Bellwether* Pleadings in *In Re National Prescription Opiate Litigation* in the United States District Court for the Northern District of Ohio, MDL No. 2804 and in Plaintiff’s Existing Complaint as has been amended herein.

Dated: August 12, 2019

/s/Anthony J. Majestro

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